



## FAIR HOUSING - FREQUENTLY ASKED QUESTIONS

**1. QUESTION: Are occupancy restrictions legal?**

**Answer:** The Fair Housing Act does not limit any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. When setting an occupancy standard, landlords should define the occupancy limit in terms of the number of occupants. Specific limitations on the number of children are in violation of the Fair Housing Act. Current fair housing regulations presume that an occupancy standard that is no more restrictive than two persons per bedroom to be acceptable. When assessing the “reasonable” standard elements that need to be considered are the size of the room, fire and health codes and any other applicable city regulations. For questions and clarification, contact the Fair Housing division at the Utah Antidiscrimination and Labor Division.

**2. QUESTION: Are policies that restrict children enforceable?**

**Answer:** No. Any rules which limit the rights of families with children violate the Fair Housing Act and are not enforceable. Due to the Fair Housing Act and its amendments, it is no longer lawful to enforce any rules which discriminate on the basis of familial status. This applies to individuals undergoing adoption procedures, foster families and single parents with children.

**3. QUESTION: Is there a pre-certification process for meeting the Housing for Older Persons exemption?**

**Answer:** Neither HUD nor the Division pre-certify housing as exempt under the Housing for Older Persons exemption. New construction projects may elect this designation and must fulfill the occupancy requirements. Existing complexes must meet all of the standards before they can be so designated.

**4. QUESTION: Can a property owner/manager ask a potential renter for credit history?**

**Answer:** Yes. A property owner/manager may legitimately ask an applicant for verification of credit history, so long as this criterion is applied to all applicants regardless of that individual’s race, color, sex, national origin, disability, religion, familial status or source of income.

**5. QUESTION: Can property owner/manager ask whether or not a potential renter has a past felony record?**

**Answer:** Yes. Again, so long as the criteria is applied consistently to all applicants regardless of that individual’s race, color, sex, national origin, disability, religion, familial status, or source of income.

**6. QUESTION: Can a property owner/manager set a higher deposit for families with children based upon wear and tear that may occur to the apartment?**

**Answer:** No. A property owner/manager cannot set a higher deposit for families with children. Any required deposits must be consistent with what would be imposed if the apartment were rented to persons without children.

**7. QUESTION: Can a property owner/manager restrict families with children from renting second and third level apartments?**

**Answer:** No. A property owner cannot restrict a family with children from renting apartments based upon the location of that unit. Individuals should be given an equal opportunity to choose available housing regardless of their race, color, sex, national origin, disability, religion, familial status, or source of income.

**8. QUESTION: Can a property owner/manager restrict persons with disabilities from renting second and third level apartments?**

**Answer:** No. A property owner must give an individual an opportunity to rent an available unit regardless of that person's disability. A person should be able to seek housing and choose where they want to live without restrictions based upon that individual's race, color, sex, national origin, disability, religion, familial status, or source of income.

**9. QUESTION: I am a qualified person with a disability. Can my future landlord ask for a security deposit for my companion animal?**

**Answer:** No. Under the Fair Housing Act, a companion animal is not considered a pet and therefore is not covered by typical rules that allow landlords to ask for pet deposits. Additionally, even in situations where the apartment complex or condo unit does not normally allow tenants to have pets, a companion animal must be allowed to remain with the qualified person with a disability as a required accommodation.

**10. QUESTION: Can you advertise an apartment as "mature couple preferred?"**

**Answer:** No. Unless a complex has qualified as **Housing for Older Persons**, this statement would clearly indicate a preference for families without children. Statements that indicate a discriminatory limitation or preference based upon a person's race, color, sex, national origin, disability, religion, familial status or source of income are in violation of the Fair Housing Act. In addition to liability for the person who places the ad, the newspaper or other publication may also be held liable for placing the discriminatory advertisement.

**11. QUESTION: How can I keep people from filing charges against/suing me?**

**Answer:** Good business practices, including record keeping and consistency in application of qualification criteria, community rules, and regulations are a good start to keeping people from filing complaints. Education, awareness, and commitment to abiding by the law are also an essential element of prevention. The purpose of the Fair Housing Act is to provide everyone an equal opportunity to obtain housing. The Fair Housing Laws require that all persons have a right to seek housing based upon their qualifications without regard to their race, color, sex, national origin, disability, religion, familial status (the presence of children under 18), and in Utah, based upon an individual being a recipient of state, local, or federal governmental assistance (source of income.)

For additional questions about the Fair Housing Act contact the Utah Antidiscrimination and Labor Division or visit our website at [www.laborcommission.utah.gov](http://www.laborcommission.utah.gov).

